

Office of the Secretary, Education

§ 5.71

assurance of full payment if the requester has a history of prompt payment of FOIA fees; or

(2) Requires an advance payment if the requester has no history of payment.

(b) If a requester has previously failed to pay a fee in a timely fashion, the FOI Officer does not process any subsequent request until the requester pays the arrears in full, including interest, and makes an advance payment of the estimated fee for the new request.

(c) Requests under this section are not deemed to have been received for purposes of § 5.51(d) until the Department receives the satisfactory assurance or advance payment.

§ 5.63 Payment of fees and interest.

(a) If a requester does not pay a fee under this subpart within 30 days after the date the billing was sent, interest is assessed at the rate prescribed under 31 U.S.C. 3717. The Secretary may use the procedures authorized under the Debt Collection Act of 1982 to collect fees due under this subpart, including disclosure to consumer reporting or collection agencies.

(b) Fee payments must be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Fee payments must be made payable to the U.S. Department of Education and mailed to the FOI Officer, Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202. A receipt for fees paid is given upon request.

§ 5.64 Waiver or reduction of fees.

(a) The Secretary may, in accordance with the FOIA, waive or reduce all or part of any fee provided for in this section if the Secretary determines that it is:

(1) In the public interest because furnishing the information can be considered as primarily benefiting the general public and is likely to contribute significantly to public understanding of the operations or activities of the government; and

(2) Is not primarily in the commercial interest of the requester.

(b) In making the determination to waive or reduce a fee under paragraph

(a) of this section, the Secretary considers the following factors:

(1) Whether the subject of the requested records concerns the operations or activities of the government.

(2) Whether the disclosure is likely to contribute significantly to public understanding of government operations or activities.

(3) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so, whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

Subpart F—Availability of Specific Records

§ 5.70 Policy.

This subpart specifies the types of records which the Department shall, in keeping with its policy of fullest possible disclosure, make available for inspection and copying. For clarity and purposes of guidance, there are also set forth below the kinds or portions of records which generally will not be released, except as may be determined under § 5.74. The appendix to this part contains some examples of the kinds of materials which, in accordance with § 5.72, will generally be released and other materials which, in accordance with § 5.73, are not normally available. In the event that any record contains both information which is disclosable and that which is not disclosable under this regulation, the nondisclosable information will be deleted and the balance of the record disclosed.

§ 5.71 Protection of personal privacy and proprietary information.

As set forth with more particularity below, certain types of information in whatever record or document contained shall not be disclosed where disclosure would be inconsistent with individual rights of personal privacy or would violate obligations of confidentiality.

(a) No disclosure will be made of information of a personal and private nature, such as information in personnel